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SUGGESTED CHANGES IN THE STATUS OF THE OFFICE OF ENVIRONMENTAL QUALITY CONTROL AND ENVIRONMENTAL COUNCIL

Statement for
House Committee
Energy, Ecology, and Environmental Protection
Hearing - 23 November 1981

By
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This statement concerns suggestions that the Office of Environmental Quality Control (OEQC), now placed for administrative purposes in the Department of Health (DOH), be merged completely with that department and that the Environmental Council be transferred to the same department. The statement reflects my opinions as Director of the University of Hawaii Environmental Center, whose establishment resulted from the same legislation as that which created the OEQC and the Council, and which has been closely associated with both bodies since. However, the statement does not reflect an institutional position of the University of Hawaii.

I have provided for the use of this committee copies of a review of the statutory provisions of the OEQC and the Council that was prepared initially for the guidance of the Council, as well as copies of this statement. I do not intend to cover all of the points made in the review, although I will be glad to respond to any questions regarding them. Instead, I want to point up what seem, from the Council's public hearing a couple of weeks ago and from the focus of this hearing, what seem to be important issues and to discuss briefly the testimony presented at the earlier hearing with respect to those issues including a few not addressed in the review.

With respect to the OEQC there are three major issues:

1. Are environmental concerns still of such importance in Hawaii as to warrant the continuation of the OEQC?
2. Are these concerns of so complex a nature that appropriate address to them requires the kind of interdepartmental coordination that the OEQC was established to provide?

3. Can the OEQC provide that kind of coordination if it is completely merged in the DOH?

These issues are closely connected. In the second and third, however, objective aspects are significant; whereas the first, which is by far the most important, involves essentially a subjective value judgement of the kind that only bodies representing the public, such as the Council and this committee, can make on behalf of the public.

I expect that the Council, having heard testimony bearing directly or indirectly on that first issue, will express its opinion concerning the continuing level of concern with Hawaiian environmental problems. However, I will risk comments on that testimony assuming that similar testimony will be presented at this hearing. Presented at the Council hearing were two statements from industrial concerns, two from professional environmental consultants, and several from associations whose principal interests concern the environment or aspects of it.

In the statements from both industries, the opinion was expressed that, with changes in conditions, maintaining an independent OEQC is no longer warranted by the statements. I was somewhat surprised by the statements. It is my impression that at least one of the industries (and I think both) have in past been shielded by the OEQC from what seemed like excessive environmental regulations proposed by the DOH, in several cases at the insistence of the federal Environmental Protection Agency. Either memories are short, or changes in the attitudes of the national administration and the DOH lead the industries to consider that such shielding is no longer necessary. There is evidence that the attitudes have changed, but if so then there is a question whether the environment may now not need to be shielded from excessive detrimental effects of the industrial activities.

The professional environmental consultants, both of whom had earlier been members of the OEQC staff, expressed opinions on the same issue diametrically opposed to each other. I have no comment on the disagreement between the two consultants.

Predictably, the environmental associations expressed the opinion that an independent OEQC is still needed. Two of the associations, in addition, cited objective evidence in the form of results of national surveys indicating that, in spite of increased levels of concern with foreign relations and the domestic economic situation, concern with environmental problems remains intensive and widespread. Our experience in the Environmental Center suggests that Hawaii is not an exception to the retention of a high level of concern nationally.

I can be more objective with respect to the second and third issues. With respect to the second, I do not think it can reasonably be argued that the Department of Health alone is concerned with environmental problems. The DOH is responsible for the control of pollution, a very important environmental problem. However, the management of natural resources, obviously environmental, is the responsibility of the Department of Land and Natural Resources (DLNR). The Department of Planning and Economic Development (DPED) and the Department of Transportation (DOT) have certain environmental management responsibilities as well as responsibilities to undertake or stimulate developments that will have environmental impacts. Probably, indeed, there is no State department that does not have some environmental responsibility. It seems unquestionable that, if the level of concerns with environmental problems remains high, interdepartmental coordination is needed in the address to these problems.

With respect to the third issue, it is at least questionable on the basis of political science theory that an interdepartmental coordination role can be exercised as effectively by an agency of one of the departments whose activities need to be coordinated as by an independent agency. I suggest, however, that there is specific evidence in the attitude of the DOH that the OEQC will lose its effectiveness if it is merged with that department. The Council has been informed that the DOH is proposing the merger. An announced reason is to provide Civil Service status to the OEQC staff, but this status can surely be provided by other means. The only conceivable remaining motive for the proposal is restriction of the OEQC to the reflection of DOH policy.

The OEQC was only one of several agencies, placed originally in the Office of the Governor, that were distributed at the same time among various departments. Representation was made to legislative committees at the time that the transfer was not intended to diminish the role of the OEQC. Underlying the transfers generally is a limitation of the departmental structure of our State government. All of our departments have "line" functions, and none of them are concerned exclusively with overall coordination of a "staff" sort. The DPED was among other departments considered as an alternative to the DOH as a "home" for the OEQC. However, even the DPED, although it is responsible for overall planning, has responsibilities in addition to stimulate economic development which needs to be balanced against environmental preservation. Hence, the coordinating role of the OEQC would be diminished by its complete merger with even the DPED. With complete merger in the DLNR, also considered as a possible "home" of the OEQC, the problem would be as great as with complete merger in the DOH.

It would seem that the DOH is about as satisfactory an administrative "home" for the OEQC as any other department. However, if the OEQC is to continue to have an effective coordinating role, it must not only continue to be nominally independent of DOH policy but have again an independent head. At the Council's hearing it was suggested that it would be awkward to have one director, that of OEQC, responsible even administratively to another, the Director of Health. If that is an issue it seems a trivial one easily solved. The title of the head of the OEQC could readily be changed to, say, "Coordinator".

Let me point out that salary of the Director is extremely small compared with the millions of tax dollars that have been saved through the coordination activities of OEQC and its Director. The savings resulted from the avoidance of actions proposed in the name of pollution control by federal and state agencies that would not in fact have produced environmental benefits.

Let me assume that, if the level of concern with environmental problems warrants the continuation of the OEQC and its coordinating role requires its independence and, further, that the OEQC will continue to need the kind of guidance from a body appointed from the public that has been provided by the Environmental Council. If the assumptions are valid, the placement of the Council should, of course, be the same as that of the OEQC. I am surprised that the placements of the two bodies are now considered different. The original placement of the Council in the Office of the Governor was not explicit in the the act creating the two bodies but merely implicit in the placement of the OEQC there and in the relationship between the bodies. I thought that transfer of the Council to the DOH was implied by the transfer there of the OEQC. If the implication is not valid, then the explicit transfer of the Council to the same department as the OEQC should be made explicit.

If the level of concern with environmental problems no longer warrants the continuation of an independent OEQC and a Council advising it, then I think it is serious by questionable that the proposed complete merger of the these bodies with the DOH is preferable to their abolishment.